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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of) MM DOCKET NO. 93-75
)
TRINITY BROADCASTING OF FLORIDA,) File No. BRCT-911001LY
INC.)
)
For Renewal of License of)
Station WHFT(TV) on Channel 45,)
Miami, Florida)
)
and)
)
GLENDALE BROADCASTING COMPANY) File No. BPCT-911227KE
)
)
For a Construction Permit for a)
New Commercial TV Station to)
operate on Channel 45, Miami,)
Florida)

To: Honorable Joseph Chachkin
Administrative Law Judge

RESPONSE TO WITNESS NOTIFICATION

Glendale Broadcasting Company (Glendale), by its attorneys, now responds to the letter submitted by Trinity Broadcasting of Florida, Inc. (TBF) on November 12, 1993 with its exhibits as well as the witness notification submitted by TBF on November 16, 1993.

In its November 12 letter, TBF purports to call four individuals as adverse witnesses in connection with the LPTV extension application issue specified against Glendale: David A. Gardner, Harold Etsell, Jr., Lee H. Sandifer, and George F. Gardner. Only George Gardner has any connection with

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Glendale. David Gardner and Lee Sandifer are associated with Raystay Co. Harold Etsell, Jr. currently has no association with Raystay, although he was formerly associated with Raystay. TBF purports to dictate that the individuals will be examined in the order it indicates. On November 16, TBF submitted a witness notification stating its intention to examine George and David Gardner "on their direct testimony (Glendale Exhibits 208 and 209) in conjunction with TBF's direct examination of these witnesses". The Mass Media Bureau submitted a witness notification on November 16 asking that Glendale make the same four individuals available for cross-examination.

Glendale has no objection to requiring testimony from the four individuals named. TBF's attempt to dictate the order in which those witnesses will testify, however, raises a procedural question which requires a ruling from the Presiding Judge. Glendale has the burden of proceeding with the introduction of evidence under the qualifications issues specified against TBF. Counsel for TBF has informed counsel for Glendale that TBF intends to present witnesses on that issue in exhibit number order (e.g., Jane Duff, the sponsor of Exhibit 101, would be offered first). On the issue specified against Glendale, where TBF has the burden of going forward with the introduction of evidence, it is purporting to dictate the order of witnesses adverse to its position.

Consistency requires that the same rules be applied to all issues. If TBF has the right to control the order of TBF/TBN/NMTV witnesses under the issues specified against it, then Glendale must have the same right with respect to the Raystay witnesses. If, on the other hand, TBF has the right to dictate the order in which the witnesses under the Glendale issue will be presented, then Glendale must be given the right to dictate the order of TBF's witnesses.

Glendale urges the Presiding Judge to rule that each applicant shall control the order of the witnesses that are presented on the issues specified against it. Thus, TBF would control the order of the witnesses on the de facto control and abuse of process issues, and Glendale would control the order of the witnesses on the LPTV application issue. Since each applicant will be coordinating with and preparing witnesses that support its position, the applicant whose qualifications are at issue will be in a better position to know whether there are any applicable scheduling conflicts. Such conflicts may occur with witnesses such as Harold Etsell, Jr. and Phillip David Espinoza, who have no current relationship with Raystay or NMTV, respectively. Moreover, the applicant who is subject to disqualification should be given the right to determine the order of the witnesses on the issue affecting that applicant. In Glendale's opinion, the fact that a party has the burden of going forward with the introduction of

evidence is an insufficient basis for allowing that party to control the order of witnesses. All parties have undertaken thorough discovery in this case, and questions can be asked of the witnesses regardless of the order in which they appear.

If the Presiding Judge adopts Glendale's suggestion, the witnesses on the LPTV extension application issue will be presented in the following order:

1. George F. Gardner
2. David A. Gardner
3. Lee H. Sandifer
4. Harold Etsell, Jr.
5. Barry L. March
6. Edward Rick, III

If, on the other hand, the Presiding Judge determines that the party with the burden of proceeding controls the order of witnesses, the witnesses on the de facto control and abuse of process issue should be presented in the following order:

1. Phillip David Espinoza
2. Phillip Russell Aguilar
3. Edward Victor Hill
4. Armando Ramirez
5. Norman G. Juggert
6. Colby M. May
7. Pearl Jane Duff
8. Paul F. Crouch
9. James G. McClellan
10. Allan Brown
11. Phillip A. Crouch
12. Matthew Crouch
13. Charlene Williams
14. Warren Benton Miller, II
15. Terrence M. Hickey
16. Christopher F. Warner, Sr.
17. Shinobu Sakukrai Chrisman
18. Brian K. Mitchell


- 19. Timothy Greenridge
- 20. En Young Park
- 21. Mona McDonald¹

In both cases, Glendale is willing to work with the Presiding Judge, the other parties, and witnesses to work around scheduling conflicts and other problems.

Accordingly, Glendale asks the Presiding Judge to rule that with respect to each issue, the party against whom the issue was specified shall control the order in which the witnesses are presented.

Respectfully submitted,

GLENDALE BROADCASTING COMPANY

By 
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Date: November 18, 1993

¹ Glendale and TBF have agreed upon a stipulation which would eliminate the need for cross-examination of David Scott Morris.

CERTIFICATE OF SERVICE

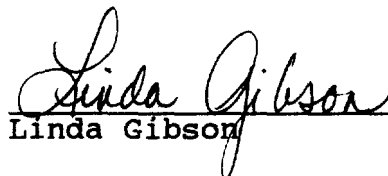
I, Linda Gibson, do hereby certify that on the 18th day of November 1993, a copy of the foregoing "Response to Witness Notification" was sent via facsimile and first-class mail, postage prepaid to the following:

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